



Reprinted
February 9, 2001

SENATE BILL No. 395

DIGEST OF SB 395 (Updated February 8, 2001 2:40 PM - DI 75)

Citations Affected: IC 3-8; IC 3-14.

Synopsis: Nomination of candidates in small towns. Provides that the legislative body of a small town may adopt an ordinance to provide for the nomination of candidates for town offices in a primary election instead of a town convention. Provides that an individual may not vote at more than one convention held in the town during the same election year. Makes a violation of this restriction a Class A misdemeanor.

Effective: July 1, 2001.

Skillman

January 18, 2001, read first time and referred to Committee on Legislative Apportionment & Elections.
February 5, 2001, reported favorably — Do Pass.
February 8, 2001, read second time, amended, ordered engrossed.

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SB 395—LS 7597/DI 75+



Reprinted
February 9, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 395

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-8-5-2 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2001]: Sec. 2. **(a)** A candidate for a town office
3 ~~shall may~~ be nominated ~~as follows:~~ **using any of the following**
4 **methods:**

5 (1) By convention conducted under this chapter.

6 **(2) By a primary election.**

7 ~~(2) (3)~~ By petition filed under IC 3-8-6. ~~or~~

8 ~~(3) (4)~~ If a town convention ~~was~~ **or a primary election** is not
9 required under section 10 of this chapter for the political party of
10 which the candidate is a member, by the candidate's declaration
11 of candidacy.

12 **(b) Unless a town legislative body adopts an ordinance under**
13 **subsection (c), a town shall use the convention method described in**
14 **this chapter to nominate candidates for town offices.**

15 **(c) A town legislative body of a town covered by this chapter**
16 **may adopt an ordinance to specify any other method described in**
17 **subsection (a) to nominate candidates for town offices.**

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(d) The town legislative body must adopt an ordinance under subsection (c) not later than January 1 of the year in which a municipal election is held. The town clerk-treasurer shall send a copy of the ordinance to the circuit court clerk of the county that contains the greatest percentage of the town's population.

(e) If a town adopts an ordinance under subsection (c) to nominate candidates by a primary election, the following apply:

(1) The county election board of the county that contains the greatest percentage of the town's population shall conduct the primary election for the town.

(2) All statutes governing primary elections for towns apply.

(3) The town may not change the method of nominating candidates for town offices more than one (1) time in any twelve (12) year period.

SECTION 2. IC 3-8-5-10, AS AMENDED BY P.L.144-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) If more than one (1) candidate from the same political party files a declaration of candidacy for the same office, that political party shall conduct:

(1) a town convention under this chapter; **or**

(2) a primary election;

to choose the nominee of that party for that office **as provided in the ordinance adopted under section 2 of this chapter.**

(b) If a town convention is required under subsection (a), the town chairman shall organize, conduct, and issue a call for a town convention to be held in the town, or, if there is no suitable location in the town, then either at the nearest available location within any county in which the town is located or at the county seat of any county in which the town is located.

(c) The convention must be held before August 21 in each year in which a municipal election is to be held. The purpose of the convention is to select the nominees for all town offices to be elected at the next municipal election and for which more than one (1) declaration of candidacy has been filed.

(d) The chairman shall file a notice of the call with the circuit court clerk of the county containing the greatest percentage of population of the town. The chairman shall also have notice of the call posted at least three (3) days in three (3) prominent public places in the town, including the office of the clerk-treasurer. The notice must state the time, place, and purpose of the convention.

SECTION 3. IC 3-8-5-10.5, AS AMENDED BY P.L.202-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2001]: Sec. 10.5. (a) A person who desires to be nominated for a town office by a major political party must file a declaration of candidacy with the circuit court clerk of the county containing the greatest percentage of population of the town.

(b) A declaration of candidacy must be filed:

(1) not earlier than January 1; and

(2) not later than:

(A) noon August 1 before a municipal election **if the town nominates its candidates by convention; and**

(B) the date that a declaration of candidacy must be filed under IC 3-8-2-4 if the town nominates its candidates by a primary election.

(c) The declaration must be subscribed and sworn to (or affirmed) before a notary public or other person authorized to administer oaths.

(d) The declaration of each candidate required by this section must certify the following information:

(1) The candidate's name, printed or typewritten as:

(A) the candidate wants the candidate's name to appear on the ballot; and

(B) the candidate's name is permitted to appear on the ballot under IC 3-5-7.

(2) That the candidate is a registered voter and the location of the candidate's precinct and township (or the ward and town), county, and state.

(3) The candidate's complete residence address and the candidate's mailing address if the mailing address is different from the residence address.

(4) The candidate's party affiliation and the office to which the candidate seeks nomination, including the district designation if the candidate is seeking a town legislative body seat.

(5) That the candidate complies with all requirements under the laws of Indiana to be a candidate for the above named office, including any applicable residency requirements, and is not ineligible to be a candidate due to a criminal conviction that would prohibit the candidate from serving in the office.

(6) The candidate's signature.

(e) Immediately after the deadline for filing, the circuit court clerk shall do all of the following:

(1) Certify to the town clerk-treasurer and release to the public a list of the candidates of each political party for each office. The list shall indicate any candidates of a political party nominated for an office under this chapter because of the failure of any other

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1 candidates of that political party to file a declaration of candidacy
2 for that office.

3 (2) Post a copy of the list in a prominent place in the circuit court
4 clerk's office.

5 (3) File a copy of each declaration of candidacy with the town
6 clerk-treasurer.

7 (f) A person who files a declaration of candidacy for an elected
8 office for which a per diem or salary is provided for by law is
9 disqualified from filing a declaration of candidacy for another office for
10 which a per diem or salary is provided for by law until the original
11 declaration is withdrawn.

12 (g) A person who files a declaration of candidacy for an elected
13 office may not file a declaration of candidacy for that office in the same
14 year as a member of a different political party until the original
15 declaration is withdrawn.

16 (h) A person who files a declaration of candidacy under this section
17 may file a written notice withdrawing the person's declaration of
18 candidacy in the same manner as the original declaration was filed, if
19 the notice of withdrawal is filed **by not later than:**

20 (1) noon August 1 before the municipal election **if the town**
21 **nominates its candidates by convention; and**

22 (2) **the date that a declaration of candidacy may be withdrawn**
23 **under IC 3-8-2-20 if the town nominates its candidates in a**
24 **primary election.**

25 (i) A declaration of candidacy must include a statement that the
26 candidate requests the name on the candidate's voter registration record
27 be the same as the name the candidate uses on the declaration of
28 candidacy. If there is a difference between the name on the candidate's
29 declaration of candidacy and the name on the candidate's voter
30 registration record, the officer with whom the declaration of candidacy
31 is filed shall forward the information to the voter registration officer of
32 the appropriate county as required by IC 3-5-7-6(e). The voter
33 registration officer of the appropriate county shall change the name on
34 the candidate's voter registration record to be the same as the name on
35 the candidate's declaration of candidacy.

36 SECTION 4. IC 3-8-5-11 IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) To determine who may vote
38 at the convention, the standards prescribed by IC 3-10-1-6 through
39 IC 3-10-1-10 for determining political party affiliation at a primary
40 election apply.

41 (b) **The county election board shall furnish the secretary of the**
42 **convention a list of all the town's voters. An individual who wants**

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1 to vote in a town convention must register with the secretary of the
2 convention before being permitted to vote in the convention. The
3 secretary of the convention shall note on the list of the town's
4 voters when an individual registers with the secretary.

5 (c) An individual may not vote at more than one (1) convention
6 held in the town during the same election year.

7 SECTION 5. IC 3-8-5-14.3 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14.3. If a convention **or**
9 **a primary election** is not required under section 10 of this chapter,
10 notwithstanding IC 3-10-7:

11 (1) a municipal primary election or town convention may not be
12 held; and

13 (2) each candidate who filed a declaration of candidacy shall be
14 placed on the municipal election ballot, unless IC 3-10-7-6(b)
15 applies.

16 SECTION 6. IC 3-14-2-30 IS ADDED TO THE INDIANA CODE
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 2001]: **Sec. 30. A person who knowingly votes at a town**
19 **convention in violation of IC 3-8-5-11(c) commits a Class A**
20 **misdemeanor.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Legislative Apportionment and Elections, to which was referred Senate Bill No. 395, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 395 as introduced.)

LANDSKE, Chairperson

Committee Vote: Yeas 6, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 395 be amended to read as follows:

Page 1, delete lines 12 through 16, begin a new paragraph and insert:

"(b) Unless a town legislative body adopts an ordinance under subsection (c), a town shall use the convention method described in this chapter to nominate candidates for town offices.

(c) A town legislative body of a town covered by this chapter may adopt an ordinance to specify any other method described in subsection (a) to nominate candidates for town offices."

Page 1, line 17, delete "(c)" and insert "(d)".

Page 2, line 1, delete "(b)" and insert "(c)".

Page 2, line 5, delete "(d)" and insert "(e)".

Page 2, line 5, delete "(b)" and insert "(c)".

(Reference is to SB 395 as printed February 6, 2001.)

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